

TENNESSEE BOARD OF CHIROPRACTIC EXAMINERS

DATE: February 9, 2012

TIME: 9:00 A.M.

LOCATION: Health Related Boards Conference Center
Poplar Room Conference Room
227 French Landing
Nashville TN 37243

BOARD MEMBERS

PRESENT: Michael Massey, D.C., President
Craig Ratcliff, D.C. Vice President
Chris Alexander, D.C., Secretary
Richard Cole, D.C.
Andrea Selby, D.C.
Gina Hampton, Citizen Member
Sheila Fitzgerald, Citizen Member

STAFF PRESENT: Melody Spitznas, Board Administrator
Elizabeth Miller, Director of Health Related Boards
Andrea Huddleston, Office of General Counsel
Christopher Smith, Office of General Counsel
Jason Hill, Board Administrator

Dr. Massey, chair, called the meeting to order at 9:06 a.m. A quorum was present. Dr. Massey introduced the newest member of the Board, Dr. Richard Cole.

Minutes

Dr. Alexander made a motion, seconded by Dr. Kelton, to approve the November 3, 2011 Board meeting minutes as written. The motion carried.

Don Litchfield, DC

Dr. Litchfield was present to address the Board regarding the reinstatement of his chiropractic license. Dr. Litchfield moved out of state in 2004 for health reasons and let his license lapse. Dr. Litchfield stated he got homesick and returned to Tennessee and would like to practice part-time. Dr. Litchfield did not complete any continuing education while his Tennessee license was lapsed. Dr. Alexander made a motion, seconded by Dr. Selby, to waive the back fees and

penalties for reinstatement, but require Dr. Litchfield to complete one hundred thirty-six (136) hours of Board-approved continuing education. Twenty-five percent (25%) of the hours may be completed by Board-approved online courses. After the hours have been completed, the administrator can reinstate the license. The motion carried.

Robert Newhalfen, DC

Dr. Newhalfen indicated on his chiropractic physician application that he had been convicted of a felony or a misdemeanor other than a minor traffic violation.

Dr. Newhalfen was present to address the Board regarding his chiropractic application. Dr. Newhalfen stated he completed an intensive outpatient program and is currently taking part in a 2-year aftercare program, attends AA meeting regularly and has a sponsor. Dr. Newhalfen stated that he and his wife love Tennessee and he would like very much to be licensed here. Dr. Newhalfen stated that he has done everything that has been suggested by his therapist and his treatment facility and his licensed incident happened in 2007. Dr. Newhalfen stated that he has been sober for one and one half (1 ½) years and recently became licensed on January 27, 2012, in the state of Indiana. The Indiana Board of Chiropractic Examiners placed his license on indefinite probation and he must continue his aftercare program, have quarterly reports submitted and appear before the Board every three (3) months for the first year and every six (6) months for the remainder of the probation. Dr. Newhalfen is currently working as a chiropractic therapy assistant in the state of Illinois. Ms. Huddleston stated that the Department is concerned about this applicant's history of habitual alcohol and/or drug use and the Board has a duty to protect the citizens of the state of Tennessee.

Dr. Cole made a motion, seconded Dr. Ratcliff, for Dr. Newhalfen to obtain a psychological assessment from the Vanderbilt Comprehensive Assessment Program (VCAP) and once the assessment is completed, appear before the Board with the results of the evaluation at a future meeting. The motion carried.

Jeffrey Yates, DC

Dr. Yates was present to address the Board regarding his chiropractic application. Dr. Yates indicated on his chiropractic physician application that he had been convicted of a felony **or** a misdemeanor other than a minor traffic violation. Dr. Yates stated he was arrested in 2009 for a first offense DUI and his probation will be completed on February 25, 2012. Dr. Yates stated he is also licensed in the state of Illinois.

Ms. Fitzgerald made a motion, seconded by Dr. Selby to approve Dr. Yates' application for licensure. The motion carried.

Danny Ziadeh, CTA

Mr. Ziadeh was present with his attorney, John F. Floyd. Mr. Ziadeh's chiropractic therapy assistant application had been delayed due to a history being noted on his criminal background check and his not showing proof of citizenship. Mr. Floyd explained that Mr. Ziadeh had

answered yes on his application that he had been convicted of a felony or a misdemeanor other than a minor traffic violation. Mr. Floyd stated that Mr. Ziadeh had received about three or four traffic violations for speeding and had a forged check claim against him in 1995 in Iowa, which was reduced to a misdemeanor. Mr. Floyd explained that the Iowa County Clerk's office was contacted in order to obtain the final disposition of the charges, but due to a flood in June 2009 the records are not accessible at this time. Mr. Floyd showed proof that Mr. Ziadeh has a US passport and is a naturalized citizen. Mr. Ziadeh works for Dr. Casey Bearden in Nashville.

Dr. Ratcliff made a motion, seconded by Dr. Cole, to approve Mr. Ziadeh's application as a chiropractic therapy assistant. The motion carried.

Thomas Jones, DC

Dr. Jones was present to ask the Board to rescind an Agreed Citation that he was issued in 2009. After discussion, it was determined that Dr. Jones had sent in his continuing education in a timely manner. Dr. Selby made a motion, seconded by Ms. Fitzgerald, to rescind the Agreed Citation and refund the \$600 penalty that Dr. Jones paid. The motion carried.

Agreed Citations

Dr. Ratcliff made a motion, seconded by Dr. Alexander, to approve the Agreed Citation for **Scott Close, DC** for practicing as a chiropractor on an expired license. Dr. Close agreed to pay a \$200 civil penalty. The motion carried.

Dr. Selby made a motion, seconded by Dr. Cole, to approve the Agreed Citation for **Stephen Merrill, DC** for practicing as a chiropractor on an expired license. Dr. Merrill agreed to pay a \$200 civil penalty. The motion carried.

Office of General Counsel Report

Andrea Huddleston, Interim Assistant Commissioner, was present and introduced the new attorney, Christopher Smith, Assistant General Counsel to the Board.

Rules regarding continuing education; necessity of certification for CXT's and CTA's [0260-02-.12; 0260-03-.03; 0260-03-.07; 0260-03-.12; 0260-05-.03; 0260-05-.07; 0260-05-.12] – (09-1231) became effective January 12, 2012

The rulemaking hearing regarding fees, chiropractic professional corporations and chiropractic limited liability companies [0260-02-.06 and 0260-02-.24], and implementing a rule requiring chiropractors to inform the Board of the names of the CTA's and CXT's working for them has been moved to the next Board meeting, which will be held on May 24, 2012. Ms. Huddleston stated she would be present for the rulemaking hearing.

There are twelve (12) open cases at OGC against chiropractors.

Ms. Huddleston informed the Board that the Tennessee Supreme Court denied Dr. Roger Byrd's application for permission to appeal the Court of Appeals' August 11, 2011 decision that upheld the Board's November 21, 2008 revocation of his chiropractic license.

Investigative Report

There are twenty-eight (28) complaints being investigated for chiropractors, one (1) for CXTs.

Monitored Practitioners

Seven (7) practitioners are on probation, four (4) have had their licenses revoked, two (2) are under a board order and four (4) were disciplined for unlicensed practice. One (1) practitioner was removed for compliance.

Administrative Report

As of February 3, 2012, there are 1077 licensed Chiropractic Physicians, 125 CXTs, and 476 CTAs.

Since the last Board meeting, a total of 15 applications have been received for Chiropractors, 7 for CXT's and 17 for CTA's.

Review Correspondence

Joe Clifford, DC, submitted a request for the Board to retroactively approve a continuing education course he took titled "Network Spinal Analysis Techniques". Dr. Clifford is also requesting if the course is not approved, to be granted an extension in order to submit hours he took January 2012 to count toward his 2011 continuing education requirement. Dr. Ratcliff made a motion, seconded by Ms. Fitzgerald, to deny "Network Spinal Analysis Techniques" for continuing education and allow the hours Dr. Clifford took in January 2012 to count toward his 2011 continuing education requirement and not be considered late in submitting the hours. The motion carried.

Amy Carpenter, DC, submitted a letter asking the Board to grant her an extension to complete her 2011 continuing education hours due to financial hardship. Dr. Cole made a motion, seconded by Dr. Ratcliff, to grant Dr. Carpenter an extension until December 31, 2012 to make up twelve (12) hours for her 2011 continuing education requirement. The motion carried.

Leon King, DC, submitted a letter asking the Board to grant an extension and allow him to complete twelve (12) hours online to complete his 2011 continuing education requirement due to health issues. Dr. Selby made a motion, seconded by Ms. Fitzgerald to grant an extension and allow Dr. King to complete twelve (12) hours of Board approved online continuing education to fulfill his 2011 continuing education requirement. The motion carried.

Thomas J. Kovacs, DC, licensed in North Dakota, submitted a letter requesting clarification from the Board if it is within a chiropractor's scope of practice in Tennessee to use Electral-Dermal-Screening (EDS), Applied Kinesiology and lab or blood work to analyze patients for

nutritional support and care in the state of Tennessee. Dr. Ratcliff made a motion, seconded by Dr. Cole, to send Dr. Kovacs a letter stating the Board cannot provide him with an advisory ruling and to refer this issue to his attorney. The motion carried.

Terry Melton, D.C. requested an extension to complete his 2011 continuing education requirement due to hardship. Dr. Cole made a motion, seconded by Dr. Selby, to grant Dr. Melton an extension of six (6) months to complete thirteen (13) hours to complete his 2011 continuing education requirement for 2011. The motion carried

Shawn Pridemore, DC's physician submitted a letter requesting a waiver of Dr. Pridemore's 2011 continuing education due to his medical condition. Dr. Cole made a motion, seconded by Dr. Ratcliff to waive the 2011 continuing education requirement for Dr. Pridemore if he is current on his 2010 continuing education requirement. The Board suggested that a letter be sent to Dr. Pridemore that he may want to consider retiring his license. The motion carried. The Board was informed by a member of the audience that Dr. Pridemore died in December 2011.

Douglas Sanford, DC, submitted a letter requesting an extension of his 2011 continuing education requirement due to a misunderstanding of the rules. Dr. Sanford stated he thought he had until January 15, 2012 to complete the 2011 continuing education requirement. Dr. Sanford submitted proof of nineteen (19) continuing education hours he completed in 2011. Dr. Ratcliff made a motion, seconded by Dr. Selby, to table the issue until the next meeting, and ask Dr. Sanford to submit the remainder of the hours he completed in January 2012. The motion carried.

Lisa Spires, a potential CTA applicant, submitted a letter requesting an extension to submit her application as a chiropractic therapy assistant. Ms. Spires stated that she was unaware until recently that there is a one-year deadline for submitting an application to the Board from the date of examination. Dr. Dr. Selby made a motion, seconded by Ms. Fitzgerald, to grant Ms. Spires request and have her submit her application within 30 days. The motion carried.

Darrell Taylor, DC, submitted a letter requesting an extension to complete six (6) hours for his 2011 continuing education requirement. Dr. Taylor has already completed eighteen (18) hours in 2011. Dr. Taylor had a flat tire on the day he was scheduled to attend a seminar on December 13, 2011. Dr. Alexander made a motion, seconded by Ms. Fitzgerald, to allow Dr. Taylor six (6) months to complete the hours and submit proof to the Board. The motion carried.

Jacob Taylor, DC, submitted a letter requesting an extension to complete twenty-four (24) hours for his 2011 continuing education requirement. Dr. Taylor relocated to Michigan in April 2011 and planned on retiring his Tennessee chiropractic license as he thought this would be a permanent move; however, in January 2012, he was offered the opportunity to return to practice in Chattanooga, TN. Dr. Taylor had obtained sixteen (16) hours of continuing education offered in the state of Michigan, but these hours were not approved by the Tennessee Board. Ms. Fitzgerald made a motion, seconded by Dr. Selby, to allow Dr. Taylor six (6) months to complete the twenty-four (24) hours of Board-approved continuing education for 2011 and waive the penalty for not submitting the hours in a timely manner. The motion carried.

Tracy Taylor, CTA and CXT, submitted a letter requesting an extension to complete her 2011 continuing education requirement for her CTA and CXT licenses. Ms. Taylor had planned on attending a seminar on December 2, 2011, but was informed she would have to have surgery on November 30, 2011. Ms. Fitzgerald made a motion, seconded by Dr. Selby to grant Ms. Taylor an extension until December 31, 2012 to complete her continuing education requirement for 2011. The motion carried.

Brittani Lei Zimmerman, CTA and CXT, submitted a letter requesting an extension to complete her 2011 continuing education requirement. In August 2011, Ms. Zimmerman submitted Affidavits of Retirement for both her CTA and CXT licenses. Ms. Zimmerman's CXT license was retired, but inadvertently her CTA license was not. Ms. Zimmerman received a letter from the Board's administrative office asking her to send in her 2011 continuing education requirement for her CTA license. Ms. Zimmerman stated she is planning on attending a seminar in March 2012. Dr. Selby made a motion, seconded by Ms. Fitzgerald to grant Ms. Zimmerman's request for an extension and give her until December 31, 2012 to make-up the hours. The motion carried.

Review/Ratify Continuing Education Courses

Dr. Ratcliff made a motion, seconded by Dr. Selby, to approve the list of continuing education courses that Dr. Alexander initially approved or denied. The motion carried. (List Attached)

Ratify Newly Licensed Chiropractors

Dr. Ratcliff made a motion, seconded by Dr. Selby, to approve the following newly licensed Chiropractors:

**Jennifer L. Fitch
Mark Sherwood Liebich
Jennifer L. Lieder
Carmen Alexandra Medina
William Scott Miller
David Pancoast Morris
Joshua Aaron Schanuel
Bradley Devon Schapiro
April Marie Smith
Douglas Eugene Stithem
Bryan Keith Tilley
Holly Ann Tucker
Tara Allyce Tuttle
Chad Alan Yarbrough**

The motion carried.

Dr. Ratcliff made a motion, seconded by Dr. Selby to approve the following reinstated Chiropractors:

Lorraine C. Bailey
Scott Close
Stephen D. Merrill

The motion carried.

Dr. Selby made a motion, seconded by Dr. Ratcliff to approve the following newly licensed Chiropractic Therapy Assistants:

Holly Anne Archer
Elizabeth Marie Arthur
Judy Gayle Batson
Karina Beltran
Jean Pollock Buchanan
Abby Lynn Clark
Tina Marie Dignan
Kerrie Dawn Fields
Ahmon Richard Goodrum
Robert Drew Hitt
Deborah Ann Holder-Armijo
Patsy Jean McConnell
Cynthia Aleene McGuire
Beverly Oliver
Amanda Jewell Randolph
Amy Michelle Russell
Christy J. Sandberg
Ashley Michelle Sandy
Crystal Anne Stevens
Hannah Smith Stewart
Ashley Denise Taylor
Lisa L. Tipton
Jo E. Walker
Christopher Dale Wright

The motion carried.

Dr. Selby made a motion, seconded by Dr. Ratcliff, to approve the following reinstated Chiropractic Therapy Assistants:

Kathy M. Buckner
Michael Richard Taylor

The motion carried.

Dr. Selby made a motion, seconded by Ms. Fitzgerald, to approve the following newly licensed Chiropractic X-ray Technicians:

Jennifer Cancino
Kyla Rachele Coleman
Sheila Mae Kasee
Hannah Louise McEwan

Dr. Selby made a motion, seconded by Ms. Fitzgerald, to approve the following reinstated Chiropractic X-ray Technician:

Kathy M. Buckner

The motion carried.

Financial Report

For FY ending June 30, 2011, the Board had direct expenditures of \$62,081.26 and revenue collections of \$267,060.72. Indirect expenditures were \$91,986.22. The current year net is \$92,977.53.

Other Board Business

The Board readopted its Policy Statement regarding of chiropractors performing athletic physicals. The Policy Statement is available on the Board's website.

Dr. Ratcliff made a motion, seconded by Ms. Fitzgerald, to adopt a Policy Statement that states a criminal background check (CBC) is valid for six (6) months from the date listed on the CBC results. If six (6) months pass without the licensure application being completed, a new CBC must be obtained and sent to the Board in order to complete the application. The motion carried.

Election of officers has been tabled until the May 24, 2012 meeting.

Mr. Hill stated that there are twenty (20) licensees that submitted their continuing education in late. Dr. Cole made a motion, seconded by Dr. Ratcliff, to approve the continuing education submitted in late without penalty. The motion carried.

The Board asked Mr. Hill to list persons who are current with their continuing education on the Board's website. The Board would like to allow licensees one (1) time to be late in submitting their continuing education requirement without penalty. Those who are late a second time will be fined.

The Board stated they would like to see a reference in the Board's newsletter regarding T.C.A. 63-2-101 regarding patient records and requests for patient records should be honored within ten (10) working days upon a written request.

The Board's attorney is to check on charging a fee to providers of continuing education for submittals. The Board will waive the fee of continuing education requests submitted by the Tennessee Chiropractic Association, the American Chiropractic Association and the International Chiropractic Association.

With no other Board business to conduct, Dr. Ratcliff made a motion, seconded by Ms. Fitzgerald, to adjourn the meeting at 12:45 p.m. The motion carried.